HONOURABLE MRS. JUSTICE T.MEENA KUMARI

&

HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:27498 OF 2007

Dated:26.12.2007

Between:

M/s Meco Tronics,
D.No.5-9-241/A/A&B,
Abids, Hyderabad,
Rep., by its Proprietor
Aiyaz M. Ebrahim

..Petitioner

And

The Commercial Tax Officer,
Nampally Circle,
Hyderabad and another.

..Respondents.

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HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:27498 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to declare the action of the 1st respondent in rejecting the stay application vide proceedings dated 26.7.2007 in Appeal No.A/69/07-08, as arbitrary and illegal and consequently, to grant stay of recovery of the disputed tax for the assessment year 2003-2004 pending disposal of the appeal before the 2nd respondent.

The main grievance of the petitioner is that aggrieved by the assessment order passed by the 1st respondent, an appeal has been filed before the 2nd respondent. Along with the said appeal, an application for stay was also filed. But the said application was rejected. Having aggrieved by the same, the present writ petition has been preferred.

Heard the learned Counsel appearing for the petitioner and the learned Special Standing Counsel for Commercial Tax and perused the material available on record.

It is the contention of the learned Counsel for the petitioner that the appeal as to the assessment order is pending before the tribunal and the petitioner has already paid 12.5% of the disputed tax and at this juncture, if the relief of stay is not entertained and if the recovery is effected, the very purpose of filing the appeal would be defeated.

In view of the submission that 12.5% of the disputed tax has

already been paid and in view of the fact that an appeal is pending before the 2nd respondent as to the assessment of tax, without expressing any opinion on the merits of the case, We feel it a fit case wherein stay can be granted, but subject to certain conditions.

Accordingly, there shall be stay of recovery of the disputed tax pending disposal of the appeal before the 2nd respondent, on condition of the petitioner depositing 50% of the disputed tax, within a period of six weeks from today. However, it is made clear that the amount paid if any, shall be given credit to the above stipulated sum.

Subject to the above direction, the writ petition is disposed of. No order as to costs.

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Justice T. Meena Kumari

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Justice G. Rohini

Date: 26th December, 2007

Note:
Issue C.C. by Monday.
(BO)
Nn.

HONOURABLE MRS. JUSTICE T.MEENA KUMARI
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WRIT PETITION No:27498 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

26/12/2007